

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Petition for
Reinstatement of:**

Amrita Dutta-Choudhury

Case No.: 800-2021-078188

**Physician's & Surgeon's
Certificate No. A 75362**

Petitioner.

**DENIAL BY OPERATION OF LAW
PETITION FOR RECONSIDERATION**

No action having been taken on the petition for reconsideration, and the time for action having expired at 5:00 p.m. on July 13, 2022, the petition is deemed denied by operation of law.

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**In the Matter of the Petition for
Reinstatement of:**

Amrita Dutta-Choudhury

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Case No. 800-2021-078188

ORDER GRANTING STAY

**(Government Code Section
11521)**

Robert F. Hahn, Esq., on behalf of Petitioner, Amrita Dutta-Choudhury, has filed a Request for Stay of execution of the Decision in this matter with an effective date of June 13, 2022, at 5:00 p.m.

Execution is stayed until July 13, 2022, at 5:00 p.m.

This stay is granted solely for the purpose of allowing the Petitioner to file a Petition for Reconsideration.

DATED: June 7, 2022



William Prasifka
Executive Director
Medical Board of California

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Petition for
Reinstatement by:**

Amrita Dutta-Choudhury

**Physician's and Surgeon's
Certificate No. A 75362**

Respondent.

Case No. 800-2021-078188

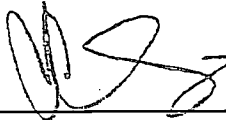
DECISION

**The attached Proposed Decision is hereby adopted as the Decision
and Order of the Medical Board of California, Department of Consumer
Affairs, State of California.**

This Decision shall become effective at 5:00 p.m. on June 13, 2022.

IT IS SO ORDERED May 13, 2022.

MEDICAL BOARD OF CALIFORNIA



**Laurie Rose Lubiano, J.D., Chair
Panel A**

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition for Reinstatement by:

AMRITA DUTTA-CHOUDHURY, Petitioner.

Agency Case No. 800-2021-078188

OAH No. 2021120591

PROPOSED DECISION

Administrative Law Judge Juliet E. Cox, State of California, Office of Administrative Hearings, heard this matter on March 15, 2022, by videoconference.

Attorney Robert F. Hahn represented petitioner Amrita Dutta-Choudhury, who was present for the hearing.

Deputy Attorney General Brenda P. Reyes represented the Department of Justice, Office of the Attorney General.

The matter was submitted for decision on March 15, 2022.

FACTUAL FINDINGS

1. The Medical Board of California issued physician's and surgeon's certificate number A 75362 to petitioner Amrita Dutta-Choudhury on June 27, 2001.
2. On April 19, 2011, the Board issued an order to petitioner directing her to appear within 30 days for examination by a psychiatrist and, if necessary, an internal medicine or family medicine specialist. The order stated that the examination's purpose would be to determine whether mental or physical illness impaired petitioner's ability to practice medicine safely.
3. Petitioner did not appear as the Board had ordered. On July 7, 2011, acting in her official capacity, former Board Executive Director Linda Whitney filed an accusation against petitioner. The accusation alleged that petitioner had disregarded the order described in Finding 2, and sought an order revoking or suspending petitioner's physician's and surgeon's certificate.
4. Petitioner filed no notice of defense to the accusation. Effective September 23, 2011, the Board revoked petitioner's certificate.
5. In May 2021, petitioner filed a petition seeking reinstatement of her certificate.

Education and Professional Experience

6. Petitioner graduated from medical school in 1999. She completed a residency in internal medicine in 2002, and became certified by the American Board of Internal Medicine that same year.

7. Between 2002 and 2008, petitioner was an internal medicine physician at Kaiser Permanente in Santa Rosa. She left that position in 2008 because of what she described at the hearing as "profound personal stressors."

8. In 2008, petitioner joined a multi-disciplinary mental health practice in Petaluma called BioPsych Associates. She did not provide regular primary care to patients in this role, but instead provided brief medical consultations for patients whose chief reasons for care in the practice were psychiatric or psychological. Other practice members, but not petitioner, prescribed medications to the practice's patients.

9. Petitioner did not testify clearly about when or why she stopped seeing patients at BioPsych Associates. Her *curriculum vitae* says that she stopped in 2009, but she testified that she stopped seeing patients there in 2010 and wrote in a statement accompanying her petition that she had spent approximately three years in this position.

10. Between January 2014 and June 2016, petitioner volunteered as a medical assistant at SF-CARE, a private psychiatry practice that enrolls patients in clinical trials for psychiatric and neurological medications. She helped the SF-CARE psychiatrist and medical director (Jason Bermak, M.D., Ph.D.) recruit patients and screen them for eligibility.

11. In summer 2016, petitioner began studying in the School of Public Health at the University of California, Berkeley. She received a Master of Public Health degree, with a concentration in epidemiology, in December 2020.

12. At the time of the hearing, petitioner worked as a research coordinator for Bridge Clinical Research, an organization that focuses on recruiting diverse patient pools for clinical trials. Petitioner also recently has participated in epidemiological research regarding unusual but clinically important manifestations of COVID-19 disease.

Events Resulting in Certificate Revocation

13. On September 25, 2009, a Mill Valley police officer stopped petitioner while she was driving. The police report states that the officer stopped petitioner because her license plate registration sticker was out of date, and learned after stopping her that the Department of Motor Vehicles (DMV) had suspended her driver's license for failure to appear for hearing on (or to pay) a citation for a moving violation. The officer arrested petitioner for driving while her license was under suspension, and searched her car in preparation for towing it.

14. As a result of the search, the officer also recommended charges against petitioner for possessing several controlled substances without prescription. The People did not charge petitioner with any crimes after her September 25, 2009, arrest, because she later registered her vehicle, restored her driver's license, and demonstrated that a physician had prescribed the drugs she possessed on that date.

15. The Board received notice about petitioner's arrest within a few days. The resulting investigation suggested that the physician who had prescribed controlled substances to petitioner had prescribed these drugs to her in very large quantities during 2009 and 2010.

16. Petitioner attended an interview with Board investigative staff members in August 2010. She described her relationship with the prescribing physician as a physician-patient relationship only.¹ She declined to give a urine sample, would not agree to present herself for examination by another physician, and did not authorize any health care providers to release records to the Board for review.

17. In December 2010, the Board received a report from a different physician describing several observations of petitioner during the preceding year that, taken together, suggested to the reporting physician that petitioner had a mental or physical health problem impairing her cognition and judgment. The Board received a similar report in January 2011 from a licensed psychologist.

18. The matters stated in Findings 15 through 17, and review of those matters by a consulting psychiatrist, led the Board to issue the examination order described above in Finding 2. As noted in Findings 3 and 4, petitioner's failure to appear for that examination led to revocation of her certificate.

¹ This statement was false, as described in more detail in Finding 19, below.

Additional Evidence

19. Petitioner had begun seeing psychiatrist Brent Cox² for mental health care in approximately 2004. She began a romantic relationship with him in approximately 2006, and was sharing a home with him in 2009 and 2010. In addition, Cox was one of the other health care providers at BioPsych Associates, as were the physician and psychologist referenced above in Finding 17.

20. According to petitioner, the physician from whom the Board received the December 2010 report was someone who had taken revenge on her after she rebuffed his romantic interest. She believes that this person also engineered her arrest on September 25, 2009, as well as an earlier report to the California Department of Motor Vehicles to the effect that she seemed unfit to drive because of ongoing psychological or neurological impairment. Petitioner's testimony about the events in 2009 is inconsistent with the police report from her arrest. In light of this inconsistency as well as of the matters stated in Findings 17 and 19, her explanation for the physician's December 2010 report to the Board is not credible.

21. Petitioner testified that she has been under a psychiatrist's ongoing care continuously since 2004, and also engages in weekly psychotherapy. She denied ever having experienced a psychiatric crisis, and stated that her treatment addresses depression, anxiety, and ongoing "stressors." She provided no treatment records or mental health evaluation.

² Cox then held a physician's and surgeon's certificate, which the Board later revoked.

22. Petitioner denies ever having used controlled substances in the large quantities the Board understood Cox to have prescribed to her in 2010. She also testified, however, that she is confident that Cox was not diverting medication (to himself or others) that he had prescribed to her. No other evidence addressed this issue, or identified controlled substances that petitioner currently may use in her psychiatric treatment.

23. Petitioner denies that any health problem contributed to her failure in 2010 and 2011 to give full and accurate information to the Board's investigators, or to appear for her Board-ordered examination. She points instead to having been unreasonably wary about the investigators' interest in her mental and physical health; to having experienced various stressful life events, including a close family member's serious illness; to having moved suddenly without updating her address; and to having been financially unable to engage counsel to advise her regarding the Board's investigation. Petitioner's testimony about these factors was credible, but was consistent with the conclusion that her cognition and judgment between 2009 and 2011 were too poor for her to practice medicine safely.

24. In hindsight, petitioner understands that the information the Board had received about her in 2009 and 2010 justified further investigation into her ability to practice safely. She testified that she is willing now to submit to a mental and physical health evaluation, to release medical records to the Board and evaluator, and to speak frankly about her mental health history and treatment. Neither her petition nor her testimony disclosed her mental health history and treatment clearly, however; and as summarized above in Findings 7, 9, and 21 through 23, her testimony at the hearing was evasive and nonspecific about key personal and professional events in the years immediately preceding her license revocation.

25. In addition to the public health degree program described above in Finding 11, and her work recruiting participants for clinical trials as described in Findings 10 and 12, petitioner has kept her medical knowledge current through continuing medical education.

References

26. Dr. Bermak, petitioner's former supervisor at SF-CARE, testified and provided a letter to support her reinstatement. He had met petitioner socially, through his friend Brent Cox, and accepted her request in 2014 to volunteer in his practice. Dr. Bermak considers petitioner a "very high-functioning individual," and believes that she is fully capable of safe medical practice.

27. Holly Doyne, M.D., testified and provided a letter to support petitioner's reinstatement. Dr. Doyne practiced for more than 30 years in the Army Medical Corps, and met petitioner while petitioner was a public health graduate student. Dr. Doyne has no first-hand knowledge about the circumstances that led the Board to revoke petitioner's certificate, but developed a very favorable opinion of petitioner during several classes petitioner took from Dr. Doyne. She believes that petitioner withstood the stress and rigor of her master's degree program admirably, and showed intelligence and strong clinical medical knowledge in her courses.

28. John Swartzberg, M.D., testified and provided a letter to support petitioner's reinstatement. Like Dr. Doyne, Dr. Swartzberg met petitioner during her master's degree program, and did not know her personally between 2009 and 2011. He mentored petitioner during her degree program and has "no reservations" about her ability to resume the safe practice of medicine.

LEGAL CONCLUSIONS

1. The matters stated in Findings 4 and 5 establish petitioner's eligibility to apply for reinstatement. (Bus. & Prof. Code, § 2307, subd. (b)(1).) Petitioner bears the burden of proving, using clear and convincing evidence, that the public interest favors the Board's permitting her to resume the practice of medicine.

2. In determining whether to grant the petition, the Board may consider all of petitioner's activities before and since her license revocation, as well as the reasons for revocation, her rehabilitative efforts, and her professional ability. (Bus. & Prof. Code, § 2307, subd. (e).)

3. The matters stated in Findings 10 through 12 and 25 through 28 demonstrate recent scholarship and medical knowledge by petitioner. The matters stated in Findings 13 through 24, however, do not explain fully why petitioner left medical practice, why she did not participate candidly and completely in the Board's investigation during 2010 and 2011, or why she allowed the Board to revoke her license in 2011 without defense. Because these matters do not explain these past events clearly, they also do not explain clearly what steps petitioner has taken to ensure that her past difficulty will not recur if she returns to medical practice.

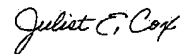
4. The Board has authority to reinstate petitioner's certificate on condition that she undergo a health evaluation and a clinical competence assessment before resuming medical practice. (Bus. & Prof. Code, § 2307, subd. (f).) Willingness to accept such conditions, however, is not clear and convincing evidence that petitioner already qualifies for reinstatement. Because the overall record at this hearing does not show either that petitioner has never suffered any impairment or that she has taken specific

steps or undergone specific treatment to correct that impairment successfully, the public interest does not favor reinstating her certificate.

ORDER

The petition by Amrita Dutta-Choudhury for reinstatement to licensure in California as a physician and surgeon is denied.

DATE: 04/13/2022



JULIET E. COX

Administrative Law Judge

Office of Administrative Hearings